



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BLACK DIAMOND ENTERPRISES, LLC et al., :

Plaintiffs, : ORDER
06 Civ. 5807 (RJS) (GWG)

v. :

LAURENCE WOOD, et al., :

Defendants. :

-----X

GABRIEL W. GORENSTEIN, United States Magistrate Judge

The Court is in receipt of a letter dated November 6, 2009 from plaintiffs and a responsive letter of the same date from defendants' counsel. Judge Sullivan has already ruled that defendants must appear for their depositions in this district absent a showing of "good cause." See Order, filed October 27, 2009, at 1 (Docket # 47). The Court is not aware that defendants have made any application to the Court showing "good cause." Accordingly, Judge Sullivan's order remains in effect.

The defendants' cursory response to plaintiffs' November 6 letter seems to reflect a belief that plaintiffs are obligated to make a motion in order to depose the defendants in this district. The Court disagrees. In light of Judge Sullivan's prior ruling, it has been the defendants' obligation to obtain relief from that ruling by making a showing of good cause as to why they cannot appear in this district.

If defendants seek relief from Judge Sullivan's order, they may make such an application by affidavit and memorandum of law provided that these materials are filed on or before November 12, 2009. Plaintiffs may respond on or before November 16, 2009. The Court notes that conclusory allegations that the defendants "do not have the financial means to travel" will be insufficient to show "good cause." Rather, any such showing on this topic must be in the form of affidavits from defendants that describe in detail (1) their monthly income and expenditures, and (2) all assets and liabilities of any kind. To permit a ruling with respect to this application, the Court will extend the discovery deadline (solely for the purpose of conducting defendants' depositions) as necessary.

If defendants do not make an application on or before November 12, 2009, defendants are ordered to appear for their depositions at the offices of plaintiffs' counsel on November 16, 2009, at 9:00 a.m. – the depositions to continue from day to day until completed. If defendants fail to appear, they are warned that a default judgment may be entered against them. Defendants' counsel shall contact plaintiffs' counsel by noon on November 13, 2009 to confirm whether or not his clients intend to appear on November 16.

SO ORDERED.

Dated: November 9, 2009
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge